

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re KENNETH EDWARD
CAPOGRECO,

No. C 10-5156 WHA (PR)

ORDER OF DISMISSAL

Plaintiff.

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This case was opened when plaintiff, a California prisoner proceeding pro se, wrote a letter to the United States District Court for the Eastern District of California complaining about the conditions of his confinement in at Salinas Valley State Prison. The case was then transferred to this court. Because plaintiff had not filed a complaint, the Clerk notified him that he should file one and sent him this court's form complaint for a civil rights action by a prisoner under 42 U.S.C. 1983. On November 21, 2010, plaintiff wrote a letter in response to the Clerk's notice in which he stated that he did not intend for his initial letter to open a case, does not want to proceed with a case in federal court, and wants to "stop" this case "before it goes any further."

Plaintiff's letter is construed as a request for voluntary dismissal of this action. A plaintiff has the absolute right to dismiss his or her action by filing a notice of dismissal "at any

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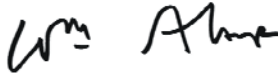
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1 time before service by the adverse party of an answer or of a motion for summary judgment."
2 Fed. R. Civ. P. 41(a)(1)(i). As defendants have not filed an answer or motion, this case is
3 **DISMISSED** pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

4 The Clerk shall enter judgment and close the file.

5 **IT IS SO ORDERED.**

6 Dated: December 1, 2010.

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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE

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